



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,198	08/08/2005	Alejandro Sanchez	21101.0049U2	8394
23850 7590 08/30/2010				
Ballard Spahr LLP				
SUITE 1000				
999 PEACHTREE STREET				
ATLANTA, GA 30309-3915				
EXAMINER				
HOANG, SON T				
ART UNIT		PAPER NUMBER		
2165				
MAIL DATE		DELIVERY MODE		
08/30/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/532,198	Applicant(s) SANCHEZ ET AL.
Examiner SON T. HOANG	Art Unit 2165

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 85-110 and 112.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Neveen Abel-Jalil/
Supervisory Patent Examiner, Art Unit 2165

/S. T. H./
Examiner, Art Unit 2165

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant arguments received on August 16, 2010 have been fully considered but are not persuasive.

First, Applicant argues towards independent claim 85 regarding that Wallace, as modified by Ringwald, does not teach or disclose "expression data," "functional data," and "structural data."

The Examiner respectfully disagrees with the above remarks. It should be clearly noted that since Applicant fails to provide explicit definition for such claimed "expression data," "functional data," and "structural data" in the claimed language, thus, such "expression data" are interpreted as data about gene expression, "functional data" are interpreted as data describing functions, and "structural data" are interpreted as data describing structures.

In light of the foregoing interpretations, Wallace teaches receiving from a plurality of databases query result data comprising "sequence sets." This is clearly data about gene expression as claimed.

Further, Ringwald teaches in Figure 4 receiving query result including their details such as strain, mutation, sex, type, age, fixation, etc. to describe functions of each molecular probe used as well as structure data of the resulted specimen. Thus, Ringwald clearly describes the "functional data," and "structural data" as claimed.

Second, Applicant argues towards independent claim 85 regarding that Wallace, as modified by Ringwald, does not teach or disclose "displaying an executive summary of the record."

The Examiner respectfully disagrees with the above remarks. Since the claimed language does not mention the executive summary of record must contain "immunohistological data, in situ hybridization data, functional data, expression data, and structural data", hence, such claimed "executive summary" is merely a brief summary of a search query. Wallace discloses such summary in Figure 6.

Claims 86-93's rejections are supported similarly at least by the reasons above.

Third, Applicant argues towards independent claims 94 and 103 regarding that Wallace, as modified by Ringwald and Gibson, does not render the invention obvious. In other words, Applicant argued towards motivations to combine Gibson with Wallace and Ringwald.

The Examiner respectfully disagrees with the above remarks. In addition to the motivation provided in the latest Office action, Gibson is appropriate to be combined with Wallace and Ringwald for the reason of facilitating an automatic update process for a plurality of database when at least one of such databases are out of date ([Abstract] of Gibson). Such teachings also provide techniques of maintaining databases as in Applicant's invention.

Claims 95-98, and 100-102, 104-108, 110, and 112's rejections are supported similarly at least by the reasons above.

Fourth, Applicant argues towards independent claims 99 and 109 regarding that Wallace, as modified by Ringwald, Gibson and Luche, does not render the invention obvious. In other words, Applicant argued towards motivations to combine Luche with Wallace, Ringwald, and Gibson.

The Examiner respectfully disagrees with the above remarks. In addition to the motivation provided in the latest Office action, Luche is appropriate to be combined with Wallace, Ringwald and Gibson for the reason of analyzing results of search queries performed on NCBI database to determine structural of biological complexes ([Column 29] of Luche). Such teachings also provide techniques of managing databases as in Applicant's invention.

Since Applicant's arguments are not persuasive, rejections of the Final Office action mailed on May 14, 2010 are hereby sustained.